

HOUSE BILL No. 1311

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3; IC 20-43-2; IC 20-51-4-2; IC 20-52.

Synopsis: Indiana education savings account program. Establishes the Indiana education savings account program (program). Provides that a parent of an eligible student or an emancipated eligible student may establish an account in the program. Provides that an eligible student who has an account is eligible to receive an annual grant amount that may be used to pay for tuition at an accredited nonpublic school or education related expenses. Provides that the treasurer of state shall administer the program. Provides that money contributed to a college choice 529 education savings plan as a qualified expense from the program is not considered a contribution for purposes of calculating the college choice 529 education savings plan income tax credit. Provides a deduction from Indiana adjusted gross income for a grant amount that is distributed to a taxpayer's Indiana education savings account and used for a qualified expense, to the extent the distribution is included in the taxpayer's federal adjusted gross income.

Effective: Upon passage; July 1, 2016.

Brown T

January 12, 2016, read first time and referred to Committee on Education.



Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1311

A BILL FOR AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-3-1-3.5, AS AMENDED BY P.L.250-2015,
2 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]: Sec. 3.5. When used in this article, the term "adjusted
4 gross income" shall mean the following:
5 (a) In the case of all individuals, "adjusted gross income" (as
6 defined in Section 62 of the Internal Revenue Code), modified as
7 follows:
8 (1) Subtract income that is exempt from taxation under this article
9 by the Constitution and statutes of the United States.
10 (2) Add an amount equal to any deduction or deductions allowed
11 or allowable pursuant to Section 62 of the Internal Revenue Code
12 for taxes based on or measured by income and levied at the state
13 level by any state of the United States.
14 (3) Subtract one thousand dollars (\$1,000), or in the case of a
15 joint return filed by a husband and wife, subtract for each spouse
16 one thousand dollars (\$1,000).
17 (4) Subtract one thousand dollars (\$1,000) for:



- 1 (A) each of the exemptions provided by Section 151(c) of the
- 2 Internal Revenue Code;
- 3 (B) each additional amount allowable under Section 63(f) of
- 4 the Internal Revenue Code; and
- 5 (C) the spouse of the taxpayer if a separate return is made by
- 6 the taxpayer and if the spouse, for the calendar year in which
- 7 the taxable year of the taxpayer begins, has no gross income
- 8 and is not the dependent of another taxpayer.
- 9 (5) Subtract:
- 10 (A) one thousand five hundred dollars (\$1,500) for each of the
- 11 exemptions allowed under Section 151(c)(1)(B) of the Internal
- 12 Revenue Code (as effective January 1, 2004); and
- 13 (B) five hundred dollars (\$500) for each additional amount
- 14 allowable under Section 63(f)(1) of the Internal Revenue Code
- 15 if the adjusted gross income of the taxpayer, or the taxpayer
- 16 and the taxpayer's spouse in the case of a joint return, is less
- 17 than forty thousand dollars (\$40,000).
- 18 This amount is in addition to the amount subtracted under
- 19 subdivision (4).
- 20 (6) Subtract any amounts included in federal adjusted gross
- 21 income under Section 111 of the Internal Revenue Code as a
- 22 recovery of items previously deducted as an itemized deduction
- 23 from adjusted gross income.
- 24 (7) Subtract any amounts included in federal adjusted gross
- 25 income under the Internal Revenue Code which amounts were
- 26 received by the individual as supplemental railroad retirement
- 27 annuities under 45 U.S.C. 231 and which are not deductible under
- 28 subdivision (1).
- 29 (8) Subtract an amount equal to the amount of federal Social
- 30 Security and Railroad Retirement benefits included in a taxpayer's
- 31 federal gross income by Section 86 of the Internal Revenue Code.
- 32 (9) In the case of a nonresident taxpayer or a resident taxpayer
- 33 residing in Indiana for a period of less than the taxpayer's entire
- 34 taxable year, the total amount of the deductions allowed pursuant
- 35 to subdivisions (3), (4), and (5) shall be reduced to an amount
- 36 which bears the same ratio to the total as the taxpayer's income
- 37 taxable in Indiana bears to the taxpayer's total income.
- 38 (10) In the case of an individual who is a recipient of assistance
- 39 under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7,
- 40 subtract an amount equal to that portion of the individual's
- 41 adjusted gross income with respect to which the individual is not
- 42 allowed under federal law to retain an amount to pay state and



- 1 local income taxes.
- 2 (11) In the case of an eligible individual, subtract the amount of
- 3 a Holocaust victim's settlement payment included in the
- 4 individual's federal adjusted gross income.
- 5 (12) Subtract an amount equal to the portion of any premiums
- 6 paid during the taxable year by the taxpayer for a qualified long
- 7 term care policy (as defined in IC 12-15-39.6-5) for the taxpayer
- 8 or the taxpayer's spouse, or both.
- 9 (13) Subtract an amount equal to the lesser of:
- 10 (A) two thousand five hundred dollars (\$2,500); or
- 11 (B) the amount of property taxes that are paid during the
- 12 taxable year in Indiana by the individual on the individual's
- 13 principal place of residence.
- 14 (14) Subtract an amount equal to the amount of a September 11
- 15 terrorist attack settlement payment included in the individual's
- 16 federal adjusted gross income.
- 17 (15) Add or subtract the amount necessary to make the adjusted
- 18 gross income of any taxpayer that owns property for which bonus
- 19 depreciation was allowed in the current taxable year or in an
- 20 earlier taxable year equal to the amount of adjusted gross income
- 21 that would have been computed had an election not been made
- 22 under Section 168(k) of the Internal Revenue Code to apply bonus
- 23 depreciation to the property in the year that it was placed in
- 24 service.
- 25 (16) Add an amount equal to any deduction allowed under
- 26 Section 172 of the Internal Revenue Code.
- 27 (17) Add or subtract the amount necessary to make the adjusted
- 28 gross income of any taxpayer that placed Section 179 property (as
- 29 defined in Section 179 of the Internal Revenue Code) in service
- 30 in the current taxable year or in an earlier taxable year equal to
- 31 the amount of adjusted gross income that would have been
- 32 computed had an election for federal income tax purposes not
- 33 been made for the year in which the property was placed in
- 34 service to take deductions under Section 179 of the Internal
- 35 Revenue Code in a total amount exceeding twenty-five thousand
- 36 dollars (\$25,000).
- 37 (18) Add an amount equal to the amount that a taxpayer claimed
- 38 as a deduction for domestic production activities for the taxable
- 39 year under Section 199 of the Internal Revenue Code for federal
- 40 income tax purposes.
- 41 (19) Subtract an amount equal to the amount of the taxpayer's
- 42 qualified military income that was not excluded from the



taxpayer's gross income for federal income tax purposes under Section 112 of the Internal Revenue Code.

(20) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the individual's federal adjusted gross income under the Internal Revenue Code.

(21) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract the amount necessary from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(22) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana, or a political subdivision of such a state, that is acquired by the taxpayer after December 31, 2011.

(23) Subtract the amount of an annual grant amount distributed to a taxpayer's Indiana education savings account under IC 20-52-3-1 that is used for a qualified expense (as defined in IC 20-52-1-9), to the extent the distribution used for the qualified expense is included in the taxpayer's adjusted federal gross income under the Internal Revenue Code.

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.



(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(9) Add to the extent required by IC 6-3-2-20 the amount of intangible expenses (as defined in IC 6-3-2-20) and any directly related intangible interest expenses (as defined in IC 6-3-2-20) for the taxable year that reduced the corporation's taxable income (as defined in Section 63 of the Internal Revenue Code) for federal income tax purposes.

(10) Add an amount equal to any deduction for dividends paid (as defined in Section 561 of the Internal Revenue Code) to shareholders of a captive real estate investment trust (as defined in section 34.5 of this chapter).

(11) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the corporation's taxable income under the Internal Revenue Code.

(12) Add an amount equal to any income not included in gross



income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(13) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana, or a political subdivision of such a state, that is acquired by the taxpayer after December 31, 2011.

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 832(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 or Section 810 of the Internal Revenue Code.



(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(9) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the insurance company's taxable income under the Internal Revenue Code.

(10) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(11) Add an amount equal to any exempt insurance income under Section 953(e) of the Internal Revenue Code that is active financing income under Subpart F of Subtitle A, Chapter 1, Subchapter N of the Internal Revenue Code.

(12) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana, or a political subdivision of such a state, that is acquired by the taxpayer after December 31, 2011.

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the



1 same as "taxable income" (as defined in Section 832 of the Internal
2 Revenue Code), adjusted as follows:

3 (1) Subtract income that is exempt from taxation under this article
4 by the Constitution and statutes of the United States.

5 (2) Add an amount equal to any deduction allowed or allowable
6 under Section 170 of the Internal Revenue Code.

7 (3) Add an amount equal to a deduction allowed or allowable
8 under Section 805 or Section 832(c) of the Internal Revenue Code
9 for taxes based on or measured by income and levied at the state
10 level by any state.

11 (4) Subtract an amount equal to the amount included in the
12 company's taxable income under Section 78 of the Internal
13 Revenue Code.

14 (5) Add or subtract the amount necessary to make the adjusted
15 gross income of any taxpayer that owns property for which bonus
16 depreciation was allowed in the current taxable year or in an
17 earlier taxable year equal to the amount of adjusted gross income
18 that would have been computed had an election not been made
19 under Section 168(k) of the Internal Revenue Code to apply bonus
20 depreciation to the property in the year that it was placed in
21 service.

22 (6) Add an amount equal to any deduction allowed under Section
23 172 of the Internal Revenue Code.

24 (7) Add or subtract the amount necessary to make the adjusted
25 gross income of any taxpayer that placed Section 179 property (as
26 defined in Section 179 of the Internal Revenue Code) in service
27 in the current taxable year or in an earlier taxable year equal to
28 the amount of adjusted gross income that would have been
29 computed had an election for federal income tax purposes not
30 been made for the year in which the property was placed in
31 service to take deductions under Section 179 of the Internal
32 Revenue Code in a total amount exceeding twenty-five thousand
33 dollars (\$25,000).

34 (8) Add an amount equal to the amount that a taxpayer claimed as
35 a deduction for domestic production activities for the taxable year
36 under Section 199 of the Internal Revenue Code for federal
37 income tax purposes.

38 (9) Subtract income that is:

39 (A) exempt from taxation under IC 6-3-2-21.7; and

40 (B) included in the insurance company's taxable income under
41 the Internal Revenue Code.

42 (10) Add an amount equal to any income not included in gross



income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(11) Add an amount equal to any exempt insurance income under Section 953(e) of the Internal Revenue Code that is active financing income under Subpart F of Subtitle A, Chapter 1, Subchapter N of the Internal Revenue Code.

(12) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana, or a political subdivision of such a state, that is acquired by the taxpayer after December 31, 2011.

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(4) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted



gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(6) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(7) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the taxpayer's taxable income under the Internal Revenue Code.

(8) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(9) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana, or a political subdivision of such a state, that is acquired by the taxpayer after December 31, 2011.

SECTION 2. IC 6-3-3-12, AS AMENDED BY P.L.182-2009(ss), SECTION 198, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 12. (a) As used in this section, "account" has the meaning set forth in IC 21-9-2-2.

(b) As used in this section, "account beneficiary" has the meaning set forth in IC 21-9-2-3.

(c) As used in this section, "account owner" has the meaning set



1 forth in IC 21-9-2-4.

2 (d) As used in this section, "college choice 529 education savings
3 plan" refers to a college choice 529 investment plan established under
4 IC 21-9.

5 (e) As used in this section, "contribution" means the amount of
6 money directly provided to a college choice 529 education savings plan
7 account by a taxpayer. A contribution does not include any of the
8 following:

9 (1) Money credited to an account as a result of bonus points or
10 other forms of consideration earned by the taxpayer that result in
11 a transfer of money to the account.

12 (2) Money transferred from any other qualified tuition program
13 under Section 529 of the Internal Revenue Code or from any other
14 similar plan.

15 **(3) Money transferred from an Indiana education savings**
16 **account established under IC 20-52-3-1.**

17 (f) As used in this section, "nonqualified withdrawal" means a
18 withdrawal or distribution from a college choice 529 education savings
19 plan that is not a qualified withdrawal.

20 (g) As used in this section, "qualified higher education expenses"
21 has the meaning set forth in IC 21-9-2-19.5.

22 (h) As used in this section, "qualified withdrawal" means a
23 withdrawal or distribution from a college choice 529 education savings
24 plan that is made:

25 (1) to pay for qualified higher education expenses, excluding any
26 withdrawals or distributions used to pay for qualified higher
27 education expenses if the withdrawals or distributions are made
28 from an account of a college choice 529 education savings plan
29 that is terminated within twelve (12) months after the account is
30 opened;

31 (2) as a result of the death or disability of an account beneficiary;

32 (3) because an account beneficiary received a scholarship that
33 paid for all or part of the qualified higher education expenses of
34 the account beneficiary, to the extent that the withdrawal or
35 distribution does not exceed the amount of the scholarship; or

36 (4) by a college choice 529 education savings plan as the result of
37 a transfer of funds by a college choice 529 education savings plan
38 from one (1) third party custodian to another.

39 A qualified withdrawal does not include a rollover distribution or
40 transfer of assets from a college choice 529 education savings plan to
41 any other qualified tuition program under Section 529 of the Internal
42 Revenue Code or to any other similar plan.



(i) As used in this section, "taxpayer" means:

- (1) an individual filing a single return; or
- (2) a married couple filing a joint return.

(j) A taxpayer is entitled to a credit against the taxpayer's adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for a taxable year equal to the least of the following:

- (1) Twenty percent (20%) of the amount of the total contributions made by the taxpayer to an account or accounts of a college choice 529 education savings plan during the taxable year.
- (2) One thousand dollars (\$1,000).
- (3) The amount of the taxpayer's adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year, reduced by the sum of all credits (as determined without regard to this section) allowed by IC 6-3-1 through IC 6-3-7.

(k) A taxpayer is not entitled to a carryback, carryover, or refund of an unused credit.

(l) A taxpayer may not sell, assign, convey, or otherwise transfer the tax credit provided by this section.

(m) To receive the credit provided by this section, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department all information that the department determines is necessary for the calculation of the credit provided by this section.

(n) An account owner of an account of a college choice 529 education savings plan must repay all or a part of the credit in a taxable year in which any nonqualified withdrawal is made from the account. The amount the taxpayer must repay is equal to the lesser of:

- (1) twenty percent (20%) of the total amount of nonqualified withdrawals made during the taxable year from the account; or
- (2) the excess of:
 - (A) the cumulative amount of all credits provided by this section that are claimed by any taxpayer with respect to the taxpayer's contributions to the account for all prior taxable years beginning on or after January 1, 2007; over
 - (B) the cumulative amount of repayments paid by the account owner under this subsection for all prior taxable years beginning on or after January 1, 2008.

(o) Any required repayment under subsection (o) shall be reported by the account owner on the account owner's annual state income tax return for any taxable year in which a nonqualified withdrawal is made.

(p) A nonresident account owner who is not required to file an annual income tax return for a taxable year in which a nonqualified



1 withdrawal is made shall make any required repayment on the form
 2 required under IC 6-3-4-1(2). If the nonresident account owner does
 3 not make the required repayment, the department shall issue a demand
 4 notice in accordance with IC 6-8.1-5-1.

5 (q) The executive director of the Indiana education savings authority
 6 shall submit or cause to be submitted to the department a copy of all
 7 information returns or statements issued to account owners, account
 8 beneficiaries, and other taxpayers for each taxable year with respect to:

9 (1) nonqualified withdrawals made from accounts of a college
 10 choice 529 education savings plan for the taxable year; or

11 (2) account closings for the taxable year.

12 SECTION 3. IC 20-43-2-1, AS AMENDED BY P.L.205-2013,
 13 SECTION 268, IS AMENDED TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2016]: Sec. 1. **Except as provided in**
 15 **IC 20-52-3-2**, the department shall distribute the amount appropriated
 16 by the general assembly for distribution as state tuition support in
 17 accordance with this article. If the appropriations for distribution as
 18 state tuition support are more than required under this article, any
 19 excess shall revert to the state general fund. The appropriations for
 20 state tuition support shall be made each state fiscal year under a
 21 schedule set by the budget agency and approved by the governor.
 22 However, the schedule must provide:

23 (1) for at least twelve (12) payments;

24 (2) that one (1) payment shall be made at least every forty (40)
 25 days; and

26 (3) the total of the payments in each state fiscal year must equal
 27 the amount required under this article.

28 SECTION 4. IC 20-43-2-3, AS AMENDED BY P.L.213-2015,
 29 SECTION 208, IS AMENDED TO READ AS FOLLOWS
 30 [EFFECTIVE JULY 1, 2016]: Sec. 3. If the total amount to be
 31 distributed:

32 (1) as basic tuition support;

33 (2) for honors diploma awards;

34 (3) for complexity grants;

35 (4) for special education grants;

36 (5) for career and technical education grants;

37 (6) for choice scholarships; ~~and~~

38 (7) for Mitch Daniels early graduation scholarships; **and**

39 **(8) for Indiana education savings account grants;**

40 for a particular state fiscal year exceeds the amounts appropriated by
 41 the general assembly for those purposes for the state fiscal year, the
 42 total amount to be distributed for those purposes to each recipient



1 during the remaining months of the state fiscal year shall be
 2 proportionately reduced so that the total reductions equal the amount
 3 of the excess.

4 SECTION 5. IC 20-43-2-7.5, AS AMENDED BY P.L.213-2015,
 5 SECTION 209, IS AMENDED TO READ AS FOLLOWS
 6 [EFFECTIVE UPON PASSAGE]: Sec. 7.5. (a) Before July 1 of each
 7 year, the budget agency, with the assistance of the department, shall
 8 estimate the amount of the distributions that will be made for choice
 9 scholarships **and Indiana education savings account grants** for the
 10 following state fiscal year.

11 (b) In the state fiscal year beginning July 1, 2014, the budget agency
 12 may transfer money from the state tuition reserve account to the state
 13 general fund if the budget director, after review by the budget
 14 committee, makes a determination that the amount of the distribution
 15 for that state fiscal year for basic tuition support has been reduced
 16 under section 3 of this chapter because the amount of the distributions
 17 for the state fiscal year for choice scholarships has exceeded the
 18 estimated amount of the distributions for choice scholarships for the
 19 state fiscal year, as determined under subsection (a). The maximum
 20 amount that may be transferred to the state general fund under this
 21 subsection for the state fiscal year may not exceed the lesser of:

- 22 (1) the amount of the reduction in basic tuition support
- 23 distributions described in this subsection; or
- 24 (2) twenty-five million dollars (\$25,000,000).

25 Any amounts transferred under this subsection shall be used to
 26 augment the appropriation for state tuition support for the state fiscal
 27 year and shall be distributed to school corporations to restore the
 28 distributions for basic tuition support that are reduced under section 3
 29 of this chapter.

30 (c) In the state fiscal year beginning July 1, 2015, the budget agency
 31 may transfer money from the state tuition reserve account to the state
 32 general fund if the budget director, after review by the budget
 33 committee, makes a determination that the amount of the distribution
 34 for that state fiscal year for basic tuition support has been reduced
 35 under section 3 of this chapter because the amount of the distributions
 36 for the state fiscal year for choice scholarships has exceeded the
 37 estimated amount of the distributions for choice scholarships for the
 38 state fiscal year, as determined under subsection (a). The maximum
 39 amount that may be transferred to the state general fund under this
 40 subsection for the state fiscal year may not exceed the lesser of:

- 41 (1) the amount of the reduction in basic tuition support
- 42 distributions described in this subsection; or



(2) twenty-five million dollars (\$25,000,000).

Any amounts transferred under this subsection shall be used to augment the appropriation for state tuition support for the state fiscal year and shall be distributed to school corporations to restore the distributions for basic tuition support that are reduced under section 3 of this chapter.

(d) In the state fiscal year beginning July 1, 2016, the budget agency may transfer money from the state tuition reserve account to the state general fund if the budget director, after review by the budget committee, makes a determination that the amount of the distribution for that state fiscal year for basic tuition support has been reduced under section 3 of this chapter because the amount of the distributions for the state fiscal year for choice scholarships **and Indiana education savings account grants** has exceeded the estimated amount of the distributions for choice scholarships **and Indiana education savings account grants** for the state fiscal year, as determined under subsection (a). The maximum amount that may be transferred to the state general fund under this subsection for the state fiscal year may not exceed the lesser of:

- (1) the amount of the reduction in basic tuition support distributions described in this subsection; or
- (2) twenty-five million dollars (\$25,000,000).

Any amounts transferred under this subsection shall be used to augment the appropriation for state tuition support for the state fiscal year and shall be distributed to school corporations to restore the distributions for basic tuition support that are reduced under section 3 of this chapter.

(e) Transfers under this section are in addition to any transfers made from the state tuition reserve account under IC 4-12-1-15.7 or any other law.

(f) This section expires June 30, 2017.

SECTION 6. IC 20-51-4-2, AS AMENDED BY P.L.211-2013, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. (a) Subject to ~~subsection~~ **subsections (b) and (c)**, an eligible choice scholarship student is entitled to a choice scholarship under this chapter for each school year beginning after June 30, 2011, that the eligible choice scholarship student enrolls in an eligible school.

(b) The department may not award more than:

- (1) seven thousand five hundred (7,500) choice scholarships for the school year beginning July 1, 2011, and ending June 30, 2012; and



(2) fifteen thousand (15,000) choice scholarships for the school year beginning July 1, 2012, and ending June 30, 2013.

The department shall establish the standards used to allocate choice scholarships among eligible choice scholarship students.

(c) An eligible choice scholarship student is not entitled to a choice scholarship under this chapter for a particular year if the eligible choice scholarship student receives an annual grant amount under IC 20-52-3-2 under the Indiana education savings account program for the same school year.

SECTION 7. IC 20-52 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]:

ARTICLE 52. INDIANA EDUCATION SAVINGS ACCOUNT PROGRAM

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Account" refers to an Indiana education savings account established by an eligible student's parent or an emancipated eligible student (as described in IC 20-26-11-4) under IC 20-52-3-1.

Sec. 3. "Annual grant amount" refers to the annual grant amount deposited into the eligible student's account under IC 20-52-3-2.

Sec. 4. "Approved postsecondary educational institution" has the meaning set forth in IC 21-7-13-6(a).

Sec. 5. "Eligible student" refers to an individual who:

- (1) has legal settlement in Indiana;**
- (2) is at least five (5) years of age and less than twenty-two (22) years of age on the date in the school year specified in IC 20-33-2-7; and**
- (3) meets at least one (1) of the following conditions:**
 - (A) The individual is a student with a disability who requires special education and for whom an individualized education program has been developed under IC 20-35 or a service plan has been developed under 511 IAC 7-34.**
 - (B) The individual is a member of a household with an annual income of not more than four hundred percent (400%) of the amount required for the individual to qualify for the federal poverty level for a household of the same size and the individual is in kindergarten through grade 12.**



(C) The individual or the individual's parent established an account in a previous school year under clause (A) or (B) on behalf of the individual.

Sec. 6. "Federal income poverty level" has the meaning set forth in IC 5-28-18-1.

Sec. 7. "Participating entity" refers to an individual or entity authorized by the treasurer of state to participate in the program under IC 20-52-4-1.

Sec. 8. "Program" refers to the Indiana education savings account program established by IC 20-52-2-1.

Sec. 9. "Qualified expenses" refers to the following expenses related to the education of an eligible student:

(1) Tuition and fees at a qualified school or other participating entity.

(2) Curricular materials required to be used by the eligible student at a qualified school or other participating entity.

(3) Payment for the purchase of curricular materials or any supplemental materials required to administer the curriculum.

(4) Fees for national norm referenced examinations, advanced placement examinations or similar courses, and any examinations necessary for admission to an approved postsecondary educational institution.

(5) Contribution to the eligible student's qualified tuition program established under 26 U.S.C. 529.

(6) Educational services for an eligible student who is a student with a disability, provided in accordance with the eligible student's individualized education program developed under IC 20-35 or service plan developed under 511 IAC 7-34.

(7) Tuition and fees at an approved postsecondary educational institution.

(8) Curricular materials required for courses in which the eligible student is enrolled at an approved postsecondary educational institution.

(9) Occupational therapy for a student with a disability, provided in accordance with the eligible student's individualized education program developed under IC 20-35 or service plan developed under 511 IAC 7-34.

(10) Fees for the management of the account, as described in IC 20-52-2-2(c).

Sec. 10. "Qualified school" refers to an accredited nonpublic school:



(1) to which an eligible student is required to pay tuition to attend;

(2) that agrees to enroll an eligible student; and

(3) that administers to an eligible student tests required under the Indiana statewide testing for educational progress (ISTEP) program under IC 20-32-5.

Chapter 2. Administration of Indiana Education Savings Accounts

Sec. 1. The Indiana education savings account program is established.

Sec. 2. (a) The program shall be administered by the treasurer of state in consultation with the state board and the department.

(b) The treasurer of state shall contract with one (1) or more financial institutions to maintain and manage accounts established under IC 20-52-3-1. The contract must contain termination and market performance clauses authorizing the treasurer of state to terminate the contract based on performance of qualification requirements established under subdivision (1). Each financial institution shall:

(1) meet qualification requirements established by the treasurer of state;

(2) comply with generally accepted accounting principles; and

(3) maintain deposit accounts for which deposits are insured by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Share Insurance Fund.

(c) The treasurer of state shall establish reasonable fees for financial institutions participating in the program based upon market rates.

Sec. 3. (a) The program is subject to annual audit by an independent public accounting firm retained by the treasurer of state.

(b) The treasurer of state shall promptly transmit copies of each annual audit to the governor and, in an electronic format under IC 5-14-6, the general assembly. Upon request, the treasurer of state shall make copies of the audit available to the public.

Sec. 4. (a) The treasurer of state shall administer an annual survey of parents of eligible students and emancipated eligible students who maintain an account under IC 20-52-3-1. The survey must request information:

(1) regarding when the account was established and the number of grants received;

(2) relating to relative satisfaction with the program; and



(3) regarding opinions on any topics, items, or issues that the treasurer of state determines may improve the effectiveness of the program.

(b) Not later than November 1, 2016, and each November 1 thereafter, the treasurer of state shall annually provide a summary of the survey administered under subsection (a) to the governor and, in an electronic format under IC 5-14-6, the legislative council.

Chapter 3. Indiana Education Savings Accounts

Sec. 1. (a) A parent of an eligible student or an emancipated eligible student may establish an Indiana education savings account for the eligible student by entering into a written agreement with the treasurer of state on a form prepared by the treasurer of state. The treasurer of state shall make the agreement available on the Internet web site of the treasurer of state. To be eligible, a parent of an eligible student or an emancipated eligible student wishing to participate in the program must agree that:

(1) the eligible student will attend an accredited nonpublic school and comply with IC 20-33-2 (compulsory attendance);
 (2) a grant deposited in the eligible student's account under section 2 of this chapter and any interest that may accrue in the account will be used only for the eligible student's qualified expenses;

(3) money in the account when the account is terminated reverts to the state general fund; and

(4) the parent of the eligible student or the emancipated eligible student will use part of the money in the account:

(A) for the eligible student's study in the subject of reading, grammar, mathematics, social studies, or science; or

(B) for use in accordance with the eligible student's individualized education program developed under IC 20-35 or service plan developed under 511 IAC 7-34.

(b) A parent of an eligible student may enter into a separate agreement under subsection (a) for each child of the parent. However, not more than one (1) account may be established for each eligible student.

(c) The account must be established under subsection (a) by a parent of an eligible student or an emancipated eligible student for a school year on or before a date established by the treasurer of state, which must be at least thirty (30) days before the fall ADM count date established by the state board under IC 20-43-4-3. A parent of an eligible student or an emancipated eligible student



1 may not enter into an agreement under this section or maintain an
 2 account under this chapter if the eligible student receives a choice
 3 scholarship under IC 20-51-4 for the same school year.

4 (d) Except as provided in subsections (e) and (f), an agreement
 5 made under this section is valid for one (1) school year while the
 6 eligible student is in kindergarten through grade 12 and may be
 7 renewed annually, and money in the account at the end of the
 8 school year remains in the account. Upon graduation or receipt of
 9 a certificate of completion under the eligible student's
 10 individualized education program, the parent of an eligible student
 11 or an emancipated eligible student shall annually renew the
 12 account and may elect to keep the account open until the money in
 13 the account is depleted or the account is terminated. However,
 14 money in the account may not be used for anything other than
 15 qualified expenses.

16 (e) An agreement entered into under this section terminates
 17 automatically for an eligible student in primary or secondary
 18 school if:

19 (1) the eligible student no longer resides in Indiana while the
 20 eligible student is eligible to receive grants under section 2 of
 21 this chapter; or

22 (2) the account is not renewed within one (1) year after the
 23 date the account was either established or last renewed.

24 If an account is terminated under this section, money in the eligible
 25 student's account, including any interest accrued, reverts to the
 26 state general fund.

27 (f) An agreement made under this section for an eligible student
 28 while the eligible student is in kindergarten through grade 12 may
 29 be terminated before the end of the school year if the parent of the
 30 eligible student or the emancipated eligible student notifies the
 31 treasurer of state in a manner specified by the treasurer of state.

32 Sec. 2. (a) An eligible student in kindergarten through grade 12
 33 who currently maintains an account is entitled to an annual grant
 34 amount for each school year until the student graduates or obtains
 35 a certificate of completion under the student's individualized
 36 education program. An eligible student may not receive a grant
 37 after graduating or obtaining a certificate of completion. The
 38 annual grant amount shall be paid from the amount appropriated
 39 as state tuition support under IC 20-43-2-1. The treasurer of state,
 40 with notice to the department, shall deposit the annual grant
 41 amount, in quarterly deposits, into an eligible student's account in
 42 a manner established by the treasurer of state.



(b) At least twenty-five percent (25%) of the grant amount deposited into an account for a particular school year must be used during the same school year. The remainder of the grant amount deposited into the account may be carried over to the next year if the account is renewed by the parent of the eligible student or the emancipated eligible student.

(c) Subject to sections 3 and 9 of this chapter, the annual grant amount for an eligible student equals the following:

(1) For an account of an eligible student:

(A) if the eligible student is a member of a household with an annual income of not more than one hundred percent (100%) of the federal income poverty level for a household of the same size, the school corporation's foundation amount provided in IC 20-43-5-4;

(B) if the eligible student is a member of a household with an annual income of more than one hundred percent (100%) and equal to or less than one hundred fifty percent (150%) of the federal income poverty level for a household of the same size, ninety-five percent (95%) of the school corporation's foundation amount provided in IC 20-43-5-4;

(C) if the eligible student is a member of a household with an annual income of more than one hundred fifty percent (150%) and equal to or less than two hundred percent (200%) of the federal income poverty level for a household of the same size, ninety percent (90%) of the school corporation's foundation amount provided in IC 20-43-5-4;

(D) if the eligible student is a member of a household with an annual income of more than two hundred percent (200%) and equal to or less than two hundred fifty percent (250%) of the federal income poverty level for a household of the same size, eighty-five percent (85%) of the school corporation's foundation amount provided in IC 20-43-5-4;

(E) if the eligible student is a member of a household with an annual income of more than two hundred fifty percent (250%) and equal to or less than three hundred percent (300%) of the federal income poverty level for a household of the same size, eighty percent (80%) of the school corporation's foundation amount provided in IC 20-43-5-4;

(F) if the eligible student is a member of a household with an annual income of more than three hundred percent (300%) and equal to or less than three hundred fifty percent (350%) of the federal income poverty level for a



household of the same size, seventy-five percent (75%) of the school corporation's foundation amount provided in IC 20-43-5-4; or

(G) if the eligible student is a member of a household with an annual income of more than three hundred fifty percent (350%) of the federal income poverty level for a household of the same size, seventy percent (70%) of the school corporation's foundation amount provided in IC 20-43-5-4.

(2) For an account of an eligible student who is a student with a disability with an individualized education program developed under IC 20-35 or a service plan developed under 511 IAC 7-34, the amount the eligible student is entitled to receive under subdivision (1) plus the STEP SEVEN amount determined in the following formula:

STEP ONE: Determine the total statewide count of pupils in programs for severe disabilities under IC 20-43-7-2 and in programs for mild and moderate disabilities under IC 20-43-7-3 during the school year ending in the immediately preceding state fiscal year.

STEP TWO: Multiply the total statewide count of pupils in programs for severe disabilities under IC 20-43-7-2 who were not served in a program for a communication disorder under IC 20-43-7-4 during the school year ending in the immediately preceding state fiscal year by the amount described in IC 20-43-7-6(1).

STEP THREE: Multiply:

(i) the total statewide count of pupils in programs for severe disabilities under IC 20-43-7-2 who were also served in a program for a communication disorder under IC 20-43-7-4 during the school year ending in the immediately preceding state fiscal year; by

(ii) the amount described in IC 20-43-7-6(1) plus the amount described in IC 20-43-7-6(3).

STEP FOUR: Multiply the total statewide count of pupils in programs for mild and moderate disabilities under IC 20-43-7-3 who were not served in a program for a communication disorder under IC 20-43-7-4 during the school year ending in the immediately preceding state fiscal year by the amount described in IC 20-43-7-6(2).

STEP FIVE: Multiply:

(i) the total statewide count of pupils in programs for mild and moderate disabilities under IC 20-43-7-3 who



were also served in a program for a communication disorder under IC 20-43-7-4 during the school year ending in the immediately preceding state fiscal year; by (ii) the amount described in IC 20-43-7-6(2) plus the amount described in IC 20-43-7-6(3).

STEP SIX: Add the results of STEP TWO through STEP FIVE.

STEP SEVEN: Divide the STEP SIX result by the STEP ONE amount.

(d) The annual grant amounts provided in subsection (c) shall be rounded as provided in IC 20-43-3-1(4).

Sec. 3. If an eligible student's agreement under section 1 of this chapter is in effect for less than an entire school year, the annual grant amount provided under section 2 of this chapter for that school year shall be reduced on a prorated basis in a manner prescribed by the treasurer of state to reflect the length of the agreement.

Sec. 4. Upon entering into or renewing an agreement under this chapter, the treasurer of state shall provide to the parent of an eligible student or an emancipated eligible student a written explanation of the authorized uses of the money in the account and the responsibilities of the parent of an eligible student or an emancipated eligible student and the treasurer of state regarding an account established under section 1 of this chapter.

Sec. 5. This chapter does not prohibit a parent of an eligible student or an emancipated eligible student from making a payment for any qualified expense from a source other than the eligible student's account. The parent of an eligible student or an emancipated eligible student is responsible for the payment of any tuition required by a qualified school that is not paid from the eligible student's account.

Sec. 6. (a) A participating entity that receives a payment for a qualified expense may not:

(1) refund any part of the payment to the parent of the eligible student or the emancipated eligible student unless the refund is for an item that has been returned to the place of original purchase or is for an item or service that has not been provided by the participating entity; or

(2) rebate or otherwise share any part of the payment with the parent of the eligible student or the emancipated eligible student who made the payment.

(b) A parent of an eligible student or an emancipated eligible



1 student who receives a refund under subsection (a) shall deposit the
2 refund into the account from which the money was paid.

3 Sec. 7. (a) The treasurer of state shall freeze the account
4 established in section 1 of this chapter of any parent of an eligible
5 student or an emancipated eligible student who:

6 (1) fails to comply with the terms of the agreement established
7 under section 1 of this chapter;

8 (2) fails to comply with applicable laws or regulations; or

9 (3) substantially misuses funds in the account.

10 (b) The treasurer of state shall send written notice to the parent
11 of the eligible student or the emancipated eligible student stating
12 the reason for the freeze under subsection (a). The treasurer of
13 state may also send notice to the attorney general or the
14 prosecuting attorney in the county in which the parent of the
15 eligible student or the emancipated eligible student resides if the
16 treasurer of state believes a crime has been committed or a civil
17 action relating to the account is necessary.

18 (c) A parent of an eligible student or an emancipated eligible
19 student whose account has been frozen under subsection (a) may
20 petition the treasurer of state for redetermination of the decision
21 under subsection (a) within thirty (30) days after the date the
22 treasurer of state sends notice to the parent of the eligible student
23 or the emancipated eligible student under subsection (b). The
24 petition must contain a written explanation stating why the
25 treasurer of state was incorrect in freezing the account under
26 subsection (a). If the treasurer of state does not receive a timely
27 submitted petition from a parent of an eligible student or an
28 emancipated eligible student under this subsection, the treasurer
29 of state shall terminate the account.

30 (d) The treasurer of state shall review a petition received under
31 subsection (c) within thirty (30) business days of receipt of the
32 petition and issue a redetermination letter to the parent of the
33 eligible student or the emancipated eligible student. If the treasurer
34 of state overturns the treasurer of state's initial decision under
35 subsection (a), the treasurer of state shall immediately unfreeze the
36 account. If the treasurer of state affirms the decision under
37 subsection (a), the treasurer of state shall give notice of the
38 affirmation to the parent of the eligible student or the emancipated
39 eligible student and terminate the account.

40 Sec. 8. Notwithstanding 511 IAC 7-34-1(d)(4), a public school is
41 not required to make available special education and related
42 services to an eligible student if the eligible student receives funds



under section 2 of this chapter and the special education services are provided to the eligible student by the participating entity. This subsection may not be construed as a restriction or limitation on any of the rights, benefits, and protections granted to an individual under the federal Individuals with Disabilities Education Improvement Act of 2004 (20 U.S.C. 1400 et seq.).

Sec. 9. Distributions made to an account under section 2 of this chapter may not be treated as income or a resource for purposes of qualifying for any other federal or state grant or program administered by the state or a political subdivision.

Chapter 4. Participating Entities

Sec. 1. It is the intent of the general assembly to honor the autonomy of nonpublic schools that choose and are authorized to become participating entities under this article. A nonpublic eligible school is not an agent of the state or federal government, and therefore:

- (1) the treasurer of state, state board, department, or any other state agency may not in any way regulate the educational program of a nonpublic school that accepts money from an account under this article, including the regulation of curriculum content, religious instruction or activities, classroom teaching, teacher and staff hiring requirements, and other activities carried out by the nonpublic school;
- (2) the creation of the program does not expand the regulatory authority of the state or the state's officers to impose additional regulation of nonpublic schools beyond those necessary to enforce the requirements of the program; and
- (3) an accredited nonpublic school that is a participating entity may provide for the educational needs of students without governmental control.

Sec. 2. (a) The following individuals or entities may become a participating entity by submitting an application to the treasurer of state in a manner prescribed by the treasurer of state:

- (1) A qualified school.
- (2) An approved postsecondary educational institution.
- (3) An individual who or tutoring agency that provides private tutoring.
- (4) An individual who or entity that provides services to a student with a disability in accordance with an individualized education program developed under IC 20-35 or a service



1 plan developed under 511 IAC 7-34.

2 (5) An individual who or entity that offers a course, program,
3 or distance learning program to an eligible student.

4 (6) A licensed occupational therapist.

5 (b) The treasurer of state shall approve an application
6 submitted under subsection (a) if the individual or entity meets the
7 criteria to serve as a participating entity.

8 (c) If it is reasonably expected by the treasurer of state that a
9 participating entity will receive, from payments made under the
10 program, more than fifty thousand dollars (\$50,000) during a
11 particular school year, the participating entity shall, on or before
12 a date prescribed by the treasurer of state:

13 (1) post a surety bond in an amount equal to the amount
14 expected to be paid to the participating entity under the
15 program for the particular school year; or

16 (2) provide the treasurer of state evidence, in a manner
17 prescribed by the treasurer of state, indicating that the
18 participating entity has unencumbered assets sufficient to pay
19 the treasurer of state an amount equal to the amount expected
20 to be paid to the participating entity under the program
21 during the particular school year.

22 (d) Each participating entity that accepts payments made from
23 an account under this article shall provide a receipt to the parent
24 of an eligible student or to the emancipated eligible student for
25 each payment made.

26 Sec. 3. (a) Each qualified school that is a participating entity
27 that accepts payments for tuition and fees made from an account
28 under the program shall administer to its eligible students the tests
29 required under the Indiana statewide testing for educational
30 progress (ISTEP) program under IC 20-32-5 in a manner
31 prescribed by the state board unless otherwise provided by an
32 eligible student's individualized education program developed
33 under IC 20-35 or service plan developed under 511 IAC 7-34.

34 (b) Upon receipt of the ISTEP program test results, the
35 department shall, subject to the federal Family Educational Rights
36 and Privacy Act (20 U.S.C. 1232(g)) and any regulations adopted
37 under that act:

38 (1) aggregate the ISTEP program test results according to the
39 grade level, gender, race, and family income level of all
40 eligible students; and

41 (2) make the results determined under subdivision (1)
42 available on the department's Internet web site.



1 **Sec. 4. (a) The treasurer of state may refuse to allow a**
 2 **participating entity to continue participation in the program and**
 3 **revoke the participating entity's status as a participating entity if**
 4 **the treasurer of state determines that the participating entity**
 5 **accepts payments made from an account under this article and:**

6 **(1) has failed to provide any educational service required by**
 7 **state or federal law to an eligible student receiving instruction**
 8 **from the participating entity; or**

9 **(2) has routinely failed to meet the requirements of a**
 10 **participating entity under the program.**

11 **(b) If the treasurer of state revokes a participating entity's**
 12 **status as a participating entity in the program, the treasurer of**
 13 **state shall provide notice of the revocation within thirty (30) days**
 14 **of the revocation to each parent of an eligible student and to each**
 15 **emancipated eligible student receiving instruction from the**
 16 **participating entity who has paid the participating entity from the**
 17 **eligible student's account.**

18 **(c) The treasurer of state may permit a former participating**
 19 **entity described in subsection (a) to reapply with the treasurer of**
 20 **state for authorization to be a participating entity on a date**
 21 **established by the treasurer of state, which may not be earlier than**
 22 **one (1) year after the date on which the former participating**
 23 **entity's status as a participating entity was revoked under**
 24 **subsection (a). The treasurer of state may establish criteria or**
 25 **requirements that the former participating entity must meet before**
 26 **being reapproved by the treasurer of state as a participating entity.**

27 **Sec. 5. The treasurer of state shall annually make available on**
 28 **the treasurer of state's Internet web site a list of participating**
 29 **entities.**

30 **Chapter 5. Rulemaking**

31 **Sec. 1. The treasurer of state shall adopt rules under IC 4-22-2**
 32 **necessary to administer this article.**

33 **Sec. 2. The state board shall adopt rules under IC 4-22-2 for the**
 34 **provision of special education or related services to an eligible**
 35 **student who receives a grant under IC 20-52-3-2. The rules**
 36 **adopted under this section must include annual reporting**
 37 **requirements, monitoring, and consequences for noncompliance by**
 38 **a participating entity.**

39 **SECTION 8. An emergency is declared for this act.**

